

REMARKS

Claims 2-3, 5 and 11-17 are pending. By this Amendment, Claim 4 is canceled without prejudice or disclaimer, Claims 2, 5 and 13 are amended and Claims 14-17 are added. Applicants respectfully submit that support for the amendments is provided in the originally filed application, and as such, no new matter is presented herein.

Claim Objections

Claim 4 is objected to under 37 C.F.R. 1.75(c) because the claim does not further limit the subject matter of the previous claim from which Claim 4 depends, i.e., Claim 3. Applicants have canceled the claim without prejudice or disclaimer, thereby rendering the objection moot. Applicants respectfully request withdrawal of the objection.

Claim Rejections – 35 U.S.C. §112

Claims 2-5 and 11-13 are rejected under 35 U.S.C. §112, first paragraph. Applicants respectfully traverse the rejection.

The Office Action states that fuel cells require an external circuit for a flow of electrons between electrodes and that if the tubular casing consists of a high polymer solid electrolytic material, the Office Action asserts that it is unclear how the Specification enables the connection of the external circuit between electrodes.

Applicants respectfully disagree with the assertion made by the Office Action. First, Applicants note that the claims have been amended in a manner that should render the rejection moot. Secondly, Applicants submit that one of ordinary skill in the art would be able to build and/or use the fuel cells recited by Claims 2 and 13 based on the originally filed application, such as, paragraph [0037] and Figure 3, and readily understand how an external circuit is connected to the leads (8, 9) of the electrodes (3).

Withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. §102/103

Claims 2-5 and 12-13 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,499,663 to Zwick et al. (Zwick). Claim 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Zwick. Applicants respectfully traverse the rejections.

Claims 2 and 13 recite a fuel cell including, among other features, the tubular casing comprises high polymer solid electrolytic material surrounding the gas diffusion electrodes and that the electrolyte layer is formed of the high polymer solid electrolytic material.

Applicants respectfully submit that Zwick fails to disclose or suggest such a feature. Rather, as best seen in Figure 2 of Zwick, the electrolyte layer (37) extends in a zig-zag type patterns that does not surround the electrodes (30, 32). Applicants respectfully submit that Zwick fails to disclose or suggest high polymer electrolytic material surrounding gas diffusion electrodes.

To qualify as prior art under 35 U.S.C. §102, a single reference must teach, i.e., identically describe, each feature of a rejected claim. To establish *prima facie* obviousness, each and every feature recited by a rejected claim must be taught or at least suggested by the applied art of record. See M.P.E.P. §2143.03. As explained above, Zwick does not disclose or suggest each and every feature recited by Claims 2 and 13. Therefore, Applicants respectfully submit Zwick does not anticipate, or render obvious, the invention recited by Claims 2 and 13. As such, Applicants respectfully submit Claims 2 and 13 should be deemed allowable over Zwick.

Regarding Claims 14-17, applicants respectfully submit Zwick does not disclose or suggest the features recited therein.

Applicants note Claims 3, 5, 11-12 and 14-17 depend from Claims 2 and 13. It is respectfully submitted that these dependent claims be deemed allowable at least for the same reasons Claims 2 and 13 are allowable, as well as for the additional subject matter recited therein.

Applicants respectfully request withdrawal of the rejections.

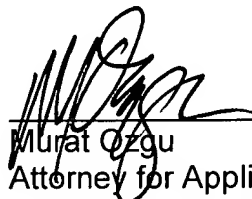
Conclusion

In view of the foregoing, reconsideration of the application, withdrawal of the outstanding objection and rejection, allowance of Claims 2-3, 5 and 11-17, and the prompt issuance of a Notice of Allowability are respectfully solicited.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 101213-00009.**

Respectfully submitted,



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